

**REMARKS**

Claims 17, 19 to 25, and 27 to 36 are pending in the present application.

In view of the following, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 17, 19, 20, 25, 27, 29, 30, 32, 33, 35, and 36 were rejected under 35 USC § 102(a) as anticipated by Achhammer et al., U.S. Patent No. 6,315,074.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(a), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the prior Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

Claim 17 is to a “system for generating a triggering signal for a restraining unit in a vehicle” including the feature of “an impact detection unit detecting an impact of the vehicle, in which, in the event of an impact, the impact detection unit generates a request signal for the restraining unit, the request signal corresponding to a type of impact that has been detected,” the feature of “a rotation detection unit detecting a rotational motion of the vehicle about at least one of the longitudinal axis and the transverse axis of the vehicle, in which the rotation detection unit generates a status signal corresponding to a rotational motion status,” and the feature of “a circuit generating the triggering signal for the restraining unit, in which the circuit combines the request signal and the status signal in generating the

triggering signal” where “the circuit includes at least one hold element determining a period of time during which no triggering signal may be generated when a critical rotational motion of the vehicle has been detected.”

Nothing in the Achhammer reference identically discloses (or even suggests) a circuit that includes at least one **hold element determining a period of time during which no triggering signal may be generated** when a critical rotational motion of the vehicle has been detected, as provided for in the context of the claim. The Achhammer reference does not identically disclose or even suggest a period of time during which no triggering signal may be generated at all. Therefore, the Achhammer reference also does not disclose or even suggest a circuit that includes a hold element determining a period of time during which no triggering signal may be generated.

The Achhammer reference also does not identically disclose (or even suggest) **an impact detection unit** detecting an impact of the vehicle, wherein, **in the event of an impact, the impact detection unit generates a request signal** for the restraining unit, the request signal **corresponding to a type of impact that has been detected**, as provided for in the context of the claim. The Achhammer reference does not identically disclose (or suggest) an impact detection unit, or that the impact detection unit generates a request signal for the restraining unit, the request signal corresponding to a type of impact that has been detected.

Accordingly, claim 17 is allowable, as are its dependent claims 19 and 20.

Claim 25 is to a “method for triggering a restraining unit in a vehicle,” including the feature of “detecting an impact of the vehicle, wherein, in the event of an impact, a request signal for the restraining unit is generated, the request signal corresponding to a type of impact that has been detected,” the feature of “detecting one of a possible occurrence of a rotational motion and an existence of a rotational motion of the vehicle,” and the feature of “generating the triggering signal for the restraining unit, in which the request signal and information regarding one of the possible occurrence of a rotational motion . . . and in which, *in the event of an impact, the restraining unit is blocked from being triggered for a selected period of time  $t_{stop}$  when a critical rotational motion exists.*”

As explained above, the Achhammer reference does not identically disclose (or even suggest) that the restraining unit is *blocked from being triggered for a selected period of time  $t_{stop}$  when a critical rotational motion exists*. As further explained above, the Achhammer reference does not identically disclose (or even suggest) detecting an impact of

the vehicle, wherein, *in the event of an impact, a request signal for the restraining unit is generated*, the request signal *corresponding to a type of impact* that has been detected, as provided for in the context of the claimed subject matter.

Accordingly, claim 25 is allowable, as are its dependent claims 27, 29, 30, 32, 33, 35, and 36.

Claims 21 to 24, 28, 31, and 34 were rejected under 35 U.S.C. § 103(a) as unpatentable over Achhammer et al., U.S. Patent No. 6,315,074, in view of Watson et al., U.S. Patent App. Pub. No. 2002/0152012.

In rejecting a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claims 21 to 24 depend from claim 17, and claims 28, 31, and 34 depend from claim 25. As explained above, the Achhammer reference does not disclose or even suggest all of the features of claims 17 and 25. Since, the Watson reference does not cure the critical deficiencies of the Achhammer reference, the proposed combination of the Achhammer reference and the Watson reference cannot disclose or suggest all of the features of claims 17 and 25, or their respective dependent claims 21 to 24, 28, 31, and 34. Therefore, claims 21 to 24, 28, 31, and 34 are allowable.

In sum, claims 17, 19 to 25, and 27 to 36 are allowable.

**CONCLUSION**

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

Dated: 6/20/2007

By: 

Gerard A. Messina  
(Reg. No. 35,952)

KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200

**CUSTOMER NO. 26646**